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school building administration

BRIEF

Towards a New Planning Act For Alberta

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Alberta
EDUCATION

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PART 1

OVERVIEW

A. Background:

"Towards a New Planning Act for Alberta" has been considered from the viewpoint of what effects its proposals might have upon Education, and what contributions Education legitimately might make to a complete planning process. From this viewpoint this brief is submitted.

Despite any assumptions to the contrary, school boards are responsible for building schools. The functions of the Provincial Government in this regard are mainly in such areas as financial assistance (except regarding land in any way) and surveillance in the general public interest ⁽¹⁾. School boards, being corporate bodies, bear a unique public responsibility in the planning and location of schools and attendance areas as part of their many functions.

The Department of Education has a global type of experience because of its detailed interrelationship with all school boards in the province. This province-wide experience lends

(1) See The School Act, Part 6 "Property", and particularly Section 91(1) and Section 94. (In essence: "A (school) board shall provide and maintain adequate real and personal property for its administrative and educational purposes." "No financial aid from Provincial Government funds shall be given to a board for construction....without the prior approval of the School Buildings Board....".)

The remainder of Part 6 may generally be said in large part to be surveillance in the general public interest.

a unique opportunity to synthesize a wide base rather than to draw from a localized situation. Thus it may lend yet another facet to the widest possible consideration prior to the formulation of a new Planning Act.

It is recognized at the outset that most matters dealt with in a planning act are properly municipally-oriented. It is also recognized there are specialists who may more fittingly address themselves to these municipally-oriented matters because of expertise and experience. Therefore, no reference is made herein to these municipally-oriented aspects. Primary attention is given to what relationships and provisions might relate to school boards in a complete planning process.

B. FORMAT:

It is expected that there are consultants and specialists who may be more effectively involved in the detailed development of "Towards a New Planning Act for Alberta", and a new Planning Act. That is, there are specialists who, given a decided intention to be worked into the Act, will write in the details of revision in proper form in all the right places. It is also anticipated that there will be rewrites, deletions, inclusions, possibly even new sections, and so forth, which militate against detailed revision proposals. Therefore, minimal point-by-point sectional changes have been proposed. A clause-by-clause rewrite is not presented. Rather, guiding principles are suggested towards changes, with some footnote references to ADDENDA to illustrate some examples (but by no means all possible examples) in the body of "Towards a New Planning Act".

For these reasons, the format of this brief is

- Part 1 Overview
- Part 11 Principles recommended for
 inclusion in a new Planning Act.
- Part 111 Some arguments for each.
- Part 1V Addenda, presenting some detail
 relating to points raised in the
 body of this brief.

PART 11

RECOMMENDED PRINCIPLES

It is recommended that a new Planning Act include provisions:

1. That school boards (or where appropriate, their employees) be given firm, formal commitment of participation at the outset and throughout planning, insofar as school sites, location, and matters which affect operation are concerned.
2. That there be definite provision for ownership by school boards of school sites from dedicated reserve land, without cost, with no strings attached.
3. That the minimum amount of land for school sites for both Public and Separate (where applicable) School Systems be specified, 5% suggested, subject to agreement between municipal and school authority to the contrary.
4. That municipal councils and school boards be left more freely to determine how the system-wide needs of their area shall affect individual situations.
5. That there be provisions for partial or completely changed use or disposal of operational school sites and improvements, or money in lieu thereof commensurate with the commercial value, the proceeds to be at the disposal of the relevant school board for capital purposes within its jurisdiction.

6. That there be provisions for partial or completely changed use or disposal of undeveloped school sites, exchange for land wherever else there is need, or money in lieu thereof commensurate with the commercial value, the proceeds to be at the disposal of the relevant school board for capital purposes within its jurisdiction.
7. That provision be made for outside review and settlement by another body in case of dispute.

PART 111

RATIONALE FOR STATED PRINCIPLES

1. "That school boards (or where appropriate, their employees) be given firm, formal commitment of participation at the outset and throughout planning, insofar as school sites, location, and matters which affect school operation are concerned," (2)

- . It is recognized and commended that there are outstanding examples of co-operation between municipalities and school boards in the use of Reserve land. This is the aim of this suggested principle, that there be basic provisions incorporated in the new Planning Act comparable to the best functional relationships which now exist and the opportunity to interact further.
- . There are exceptions, numerous enough to cause difficulties for school boards involved. One very recent example: A school board was notified by a municipal council of the school site in a new subdivision (and the purchase price of this Reserve land -- which matter relates to Principle 2). The detailed subdivision plan shows the site on the narrower edge of an attendance area half a mile by a mile and directly across a road from another school on the very edge of another subdivision. Both schools would normally serve grades 1 - 6, though some other grades may also be involved. The school board reports it was not consulted. Nor can anything be changed now as the linen has been registered. The school board seems to have two

(2) See ADDENDUM 1: SOME PLACES FOR SCHOOL BOARD PARTICIPATION.

choices: pay up, or build additionally on the site across the street. The ultimate point is not this inequity, but the necessity that no site location be possible without the approval of that body which must answer to the electorate for a detailed education plan, the school board.

- . There should be absolutely no possibility of the approval of a subdivision at the linen stage unless there is approval of school sites by the respective school boards, whether the land is immediately needed or not.
 - . Impediment of legitimate, exclusively council business by a school board is not countenanced. Matters of site location, transportation patterns, co-operation with and provision for recreation, up-to-date statistical analyses of enrolment patterns and trends, are some of the legitimate concerns of school boards, who, in turn may likely provide useful expertise and experience for all to consider. There is a need for interaction in these regards, as well as the legitimate exercise of initiative on the part of school boards.
 - . An increase of understanding of municipal aims and problems may in turn contribute additional constructive, current experience for school boards and/or their personnel. Both feed-in and feed-back might have a salutary effect in promoting the public good. It should be tried to the fullest possible measure on the basis of equality.
2. "That there be a definite provision for ownership by school boards of school sites from dedicated reserve land, without cost, and with no strings attached,"¹¹

- . Tribute is given to the many areas in which provision is made for school sites from dedicated land. The large number of apparently amicable arrangements in this regard seems to have increased in recent times to the extent that a trend towards this provision now seems so apparent that formal provision would clean up the exceptions.
- . Exceptions, though in the minority, can be most difficult for school boards. Acquisition of land for many years has been the responsibility of respective school boards. Although Government guaranteed debentures have generally been available, repayment and interest reflect upon local taxation. Land purchase for school sites in a few areas is not commensurate with the procedure of sites from Reserves in the majority. Schools are held to be an essential public service as are other functions served by Reserves; it is contrary to the best public interest to exclude school sites optionally, and thereby force increased local taxation. Sections 50-53 inclusive should be re-phrased to reflect these interests, where pertinent. Any other references should be brought into line. (3)
- . It is pointed out, with regard to subsequent principles, that need for schools varies over a long period of time. If constructive measures are to be taken (see Addendum VI) ownership should be in the hands of the school board.
- . "Without cost" should be qualified to refer to the cost of land itself. It is presumed to be the present intention

(3) See ADDENDUM II: SOME REVISIONS PROPOSED TO ENABLE SCHOOL BOARDS TO "OWN" SCHOOL SITES OF A SPECIFIED SIZE.

that be it developer, or be it a Municipality from its land bank, or whoever else it be who sets up a subdivision in any way, provision is to be made for specified lands for the public need "without cost to the public at large". In referring to school land "without cost" this presumed principle is commended. Thereafter there may be costs of "frontage" - type services which may in part be considered to be a legitimate charge to any institutional enterprise. In this regard there seems to be need to differentiate between costs commensurate with a multiplicity of serviced lots and those attributable to one block of land. Apparently inordinate servicing costs as though the one block of land were a multiplicity of lots seem at times to circumvent the "without cost" concept, to the extent that provision for protest, review, and re-costing would appear to be necessary. A school board has little practical defence against such a guise, but should have because the ultimate "loser" inevitably will be the taxpayer.

- . "No strings attached" should not in actual occurrence be as radical as it may at first sound. It may be pointed out that school boards now own, outright, many of their school sites. There are constraints at law, and by virtue of holding elected office, that should virtually eliminate irresponsible land dealing in the future as they have in the past. The desirable feature of ownership lies in the ability of the school board owner to receive value for unneeded land, and improvements thereon, which shall and must go directly into other capital assets to the benefit of the taxpayer and the students. (See Addendum VI). The present expectation that Reserve shall revert to the Municipality will not best promote recapture of underused capital, any improvements built on the land are in this situation are probably jeopardized (who gets what?), and

large sums of public money invested by the Government for educational purposes in school buildings may be frozen rather than put back into new educational purposes.

3. "That the minimum amount of land for school sites for both Public and Separate (where applicable) School Systems be specified, 5% suggested, subject to agreement between municipal and school authority to the contrary." (4)

- . It is conceded that expectations vary and that some may be judged to be excessive. All wisdom probably does not reside in any one agency, public body, or individual. It is proposed therefore that some essential minimum be struck ----- "subject to agreement between municipal and school authority (in any particular locality) to the contrary." If there should arise an inexorable disagreement as to division of this 5% maybe some system of reverting to the Government of Alberta, Department of Education, might be devised, to permit arbitration to occur, or allocation to be made, if such action is necessary.
- . An amount of 5% of land on a section basis would appear to be an effective provision. Not "may", but "shall". Surpluses here can make up for shortages there, at less detriment to the general taxpayer. Granted situations such as smaller annexations, and dedication by several owners in a subdivision pose problems of assembly in this regard. However, there are proposed provisions for "trade-offs" (eg. Section 65 "Each owner would be entitled to be allotted a new parcel or parcel of land -----."), provisions for money in lieu,

(4) See ADDENDUM II: SOME REVISIONS PROPOSED TO ENABLE SCHOOL BOARDS TO "OWN" SCHOOL SITES OF A SPECIFIED SIZE.

and other practical solutions which should be applied.

School sites need to be planned over quite a large area --- hence also school board involvement.

- . Higher than average density should necessitate a larger dedication if an increased number of students is to be a result. A formula system might be devised, but provision for "mutual agreement to the contrary" might for now be an adequate solution as long as there is provision for increase above 5%, and an opportunity for appeal if no agreement is possible or felt to be excessive by an aggrieved party.
- . School needs may better be defined in terms of resident or served population, (rather than in terms of students) as much for the reasons of density, and peak-to-maturity fluctuations on the number of students in residential areas as for other reasons. It is a complex procedure based on very objective studies in a specific area (an area being much larger than a subdivision), and probably best done on each specific region. This is one of the matters that a school board could be expected to feed into the planning process. Local freedom within reasonable bounds may promote such developments to the general good.
- . Other reasons for specific allocation of school sites are dealt with later, in 5 and 6.

4. "That municipal councils and school boards be left more freely to determine how the system-wide needs of their area shall affect individual situations".

- . A case in point lies in Section 53(1)(c):

"53(1) Reserve land would be acquired --- and used for only the following purposes ---

- (c) a school site or part thereof, where the school authority has entered into an agreement with the municipality whereby the school is to be used for community purposes outside school hours, and ---"

It is not contested that the widest possible use should be made of community facilities of all sorts. Community involvement is a keynote of these matters. But schools are only one type of community facility among a variety of community facilities, some operated by school authorities and some by municipalities. This seems to be a unilateral enforcement, which might better be considered in the global concept of the maximum use of all public community facilities. A reading of Section 92 of The School Act ⁽⁵⁾ and Section 118 of The Municipal Government Act ⁽⁵⁾ will put this matter in perspective. These provisions are bilateral. It would be desirable to review and revise this section in the light of mutual bilateral agreement, rather than on a unilateral basis as it is now.

- . Under Section 49 ⁽⁶⁾ of Towards a New Planning Act for Alberta ---"Dedication of Lands"--- the principle is stated, "An approving authority could request the dedication of reserve land only to the extent that reserve lands are likely to be principally used by the occupants of the subdivision". It is similarly stated elsewhere, also. This concept of isolation has numerous, rather obvious difficulties, for it is easy enough to demonstrate that subdivisions do not live as independent

(5) See ADDENDUM III "Section 92, The School Act and Section 118, The Municipal Government Act".

(6) See ADDENDUM IV (copies of Section 93 and 115 of The School Act.

principalities warded from, and needing no services from other segments. In school matters the neighborhood school has a place, but modern society is also more wideranging and now generally accepts some wider-area schools. High Schools are an example; other schools above Grade 6 seem more increasingly another. Thus, school land needs vary from subdivision to subdivision depending upon the planning and policy of a school board. Who knows what the future may hold in this regard? A land-locked, monolithic concept of school land organization does not seem to be fitting in a forward-looking document. Cannot community representatives, both municipal and school, be encouraged to offer leadership in such local matters as attendance areas by mutual agreement within legal limits? There are provisions for "trade-offs" and exchanges in this proposed Act which could be appropriately used if adapted suitably.

5. "That there be provisions for partial or completely changed use or disposal of operational school sites and improvements, or money in lieu thereof commensurate with the commercial value, the proceeds to be at the disposal of the relevant school board for capital purposes within its jurisdiction." (7)

. This comes right down to the concept of "Reserve". There is no quarrel with it (rather, there is commendation), but how immutable should a Reserve be? What suits today's need may become an enshrined anomaly in the future for many reasons. Those present sites owned outright by a school board (and probably most still are) can be rechannelled

(7) Refer to ADDENDUM V: SOME REVISIONS TO ALLOW FOR CHANGED USE AND DISPOSAL OF SCHOOL SITES.

if rezoning is possible. A control of normal expectations is held to be eminently sound (eg. school sites should be for schools and related public benefit), but a vestigial continuation of frozen assets is not to be revered (eg. a part or all of a school is no longer really needed, and there it sits continuously.)

- . There are specific requirements in The School Act (8) that should safeguard against irresponsible use of any powers of this nature given to school boards. If these are not enough, change can be sought, or provision set out in this Act. How this may be done is a legal matter best referred to legal specialists, if deemed necessary.
- . The problem which eventually must be faced is that land alone is seldom involved. There are usually improvements of significant value, which are public investments. The value of unneeded land and improvements should be open to transfer to areas of current need. The public assets in one area were supported across the municipality; new assets are supported similarly. Any alleviation by way of re-use of unused assets should apply globally, rather than exclusively within a subdivision.
- . Life styles of people seem to be changing at this time more than during many previous generations. Birth rates have dropped, yet the effect upon schools will not be totally evident for close to nine years. Suburban growth is significant, yet in many municipal areas which contain these suburbs the population is either dropping in total or remaining stable. Subdivisions have varying family

(8) See ADDENDUM IV: SELECTED SECTIONS OF THE SCHOOL ACT (93 and 115)

patterns over many years, yet an almost constant initial condition is that the greatest number of students is usually in the first few (4-10) years, thereafter declining significantly. The concept that a school is a school is a school for ever and ever is breaking down in many instances. The practice that one lived close to his work is not as general as it was a few generations ago; similarly there has been a trend developing that education may involve a degree of commuting, and this may continue. Who knows? As a forward-looking document, The Planning Act should provide the opportunity to move with the times, avoiding perpetuated monuments to decisions that did not discern what changes would occur. The proposal is to leave open options for change, not legislate change. To re-use assets and re-channel public money to where it is currently needed is essential.

- . It is now evident from observation of new subdivisions of 4-10 years ago that peaks soon pass and school populations drop. It is no longer to be assumed depopulation (as far as schools are concerned) is related to the "inner core". The best possible decisions of even ten years ago were often not completely sound for today. Are today's decisions in this regard more sound? We may know 4-10 years hence. Flexibility to re-organize and redeploy is important.
- . These matters have been and are being considered by school boards. A comment often made is that zoning requirements impede change. A statement by The Minister of Education, the Hon. Lou Hyndman, in the House, as reported in The Alberta School Trustee ⁽⁹⁾ illustrates the need for the proposal succinctly. Rather than go on at length, it is

(9) See ADDENDUM VI: MINISTER'S SUGGESTIONS AND ALTERNATIVES.

presented for selective study as a desirable "new" trend; and may it be emphasized, in open cooperation between school and municipal authorities as equals in seeking the greatest public good and the conservation and redeployment of public assets commensurate with their original general intention. (It is possible The School Act, The Municipal Government Act, maybe others, may need some adjustments -- legal experts may then decide. The Planning Act can lead the way.)

6. "That there be provisions for partial or completely changed use or disposal of undeveloped school sites, exchange for land wherever else there is need, or money in lieu thereof commensurate with the commercial value, the proceeds to be at the disposal of the relevant school board for capital purposes within its jurisdiction." (10)

- . Principle 6 may be said to be "the other side of the coin" from Principle 5.
- . School sites, when provided initially, appear to be necessary and desirable as viewed at that time. Development is an ongoing thing, sometimes subject to change. The ready ability to adjust school sites is also desirable, to sell, trade off, develop in other ways, or whatever is eminently sensible when the need is clear.
- . There are provisions whereby a replotting or resubdividing scheme can occur for sufficient cause. The seriousness of

(10) Refer to ADDENDUM V: SOME REVISIONS TO ALLOW FOR CHANGED USE AND DISPOSAL OF SCHOOL SITES.

such an action is obvious; the need for embodiment of provisions to safeguard against irresponsibility in this regard is not questioned. Yet development is an on-going process, and rare situations meriting change may be viewed similar to Item 5.

- . Provisions for sale, exchange, or money in lieu, are held to be just as applicable to school boards as they are to municipal councils. Both are agencies working in the best public interest to provide for essential public needs on a global basis, not just to serve landlocked, independent principalities.
 - . The same or similar safeguards regarding application of funds, if any, as were discussed under Item 5 should apply here.
7. "That provision be made for outside review and settlement by another body in case of dispute." (11)
- . Part V Towards a New Planning Act for Alberta deals with Appeals and Judicial Review. It is not the intent to advise on how applicable these procedures may be to a breakdown of negotiations between authorities. The point is that some sound procedure of appeal is necessary.
 - . Since both ultimate authorities, municipality and school district, are corporate bodies, dispute may need to be arbitrated by another body such as the Local Authorities Board. Should there be possibility of conflict with an agency or emanation of government some other Ministerial avenue may be more appropriate.

(11) See ADDENDUM VII: SOME SUGGESTIONS FOR RESOLUTION OF DISPUTES.

PART IV

ADDENDA

ADDENDUM 1

SOME PLACES FOR SCHOOL BOARD PARTICIPATION
REFERRING TO PRINCIPLE I

Principle I:

"That school boards be given firm formal commitment in The Planning Act of participation at the outset and throughout planning, insofar as school sites, location, and matters which affect operation are concerned".

- . 8(2) provides for the membership of a Regional Planning Commission. It very profitably might include some school board members, possibly from the Trustees' Zone organization of that area in order that there not be a preponderance of trustees. Rotation might be a useful procedure to spread experience and contributions around.
- . 9(2) provides that regional plans be prepared in consultation with municipalities having jurisdiction in the area to which the plan relates. Similarly school board representation should be involved, both from public and separate systems.
- . 11(2) a council should have the opportunity to appeal to the Board a decision of a regional planning commission ----. So might a school board? Although this section may be speculative at this time, the point is that whatever appeal mechanism is set up should apply to school boards, too, insofar as matters vital to their public operation are concerned.
- . 12(4) refers to membership of a metropolitan planning commission. Whatever bodies eventually are favored should have provision for the association of school board representatives.
- . 19(2) is similar but refers to Municipal Planning Committees --- school board representation would be desirable insofar as it may provide for feed-in and feed-back on matters relating to school-related affairs.
- . 20 refers to General Municipal Plans, 21 to Area Structure Plans, 22 to Area Redevelopment Plans, all of which deal with matters relating to and affecting schools. School board contributions, and derived benefits should be significant in such matters, and membership in some suitable form therefore desirable.

- . 36 refers to procedure for enacting by-laws, which includes the opportunity of representation from various public sectors. Probably school boards should specifically be included.
- . 45(5) indicates an approving authority should refer an outline subdivisional plan to a council of the municipality concerned. It is urged that the school boards should also be given the same treatment.
- . 47 deals with subdivision approvals. Consultation with school boards affected should also take place.
- . These are not a detailed survey, but some examples. Both school boards as corporate public bodies, and their employees, are worthy of the opportunity to co-operate and be fully involved in those matters relating to their areas of responsibility. The principle can be detailed in many ways, but second class status and token consideration are not proposed.

ADDENDUM II

SOME REVISIONS PROPOSED TO ENABLE SCHOOL
BOARDS TO "OWN" SCHOOL SITES OF A SPECIFIED SIZE

Principle II:

"That there be a definite provision for ownership by school boards of school sites from dedicated reserve land, without cost, and with no strings attached."

Principle III:

"That the minimum amount of land for school sites for both Public and Separate (where applicable) School Systems be specified, 5% suggested, subject to agreement between municipal and school authority to the contrary."

- . 50(1) Subsection (1) at present seems to set a 5%
 - (2) minimum for use as reserve land, and subsection (2) seems to enable up to 10% more to be required to be so dedicated. It is suggested these numbers, 5% and 10%, should be reversed. It is then suggested that 50(1) break the new amount of 10% into 5% for school site(s) to the school board(s) in location(s) acceptable to the board(s) and 5% as reserve land for other purposes. Thereafter, 50(2) might allow for an additional dedication of up to 5% for school site(s) and/or reserve land for other purposes.
- . 50(4) This subsection (4) recommended to be deleted. This concept that reserve lands and/or school sites should only be required by dedication without compensation if "in the opinion of the approving authority (they are) likely to be principally used by the occupants of the subdivision" should not be accepted. It is held that all should contribute similarly to the totality of the public good, if not locally then by transfer (i.e. probably sale and re-application of proceeds elsewhere). It is submitted to be a specious argument that any segment of society may not contribute to the totality of the public good, wherein all are part of the public, some facet thereof.
- . 52(1) "Approving authority" should include "school board", so that municipality and/or school board might decide on money in lieu of dedication. (again, please note Addendum III, particularly Section 115(1)(c).) This

same broadening of "approving authority" should pertain to all references to land dedicated without compensation for school site purposes.

Or, an alternative choice might be "the approving authority with the expressed approval of the school board(s) involved," with appropriate reference elsewhere to registration in the name of the pertinent school board.

- . 53(1) "Reserve land would be acquired by a municipality and used for only the following purposes ----" would need adjustment. It might be rewritten "Reserve land would be acquired by a municipality for the following purposes".

Subsequently in subsection (c) a rewrite might follow such lines as "(c) a school site, part thereof, or school sites for the purpose of registration in the name of the school board(s) involved".

ADDENDUM III

SECTIONS OF THE SCHOOL ACT AND
THE MUNICIPAL GOVERNMENT ACT

THE MUNICIPAL GOVERNMENT ACT

Agreements
re joint
public
works

118. (1) Subject to the other provisions of this Act, a council may pass a by-law authorizing the making of an agreement with the council of any other municipality, the board of trustees of a school district or division or the Minister on behalf of any improvement district or special area

(a) for the joint construction, ownership, maintenance, operation or use of a public work or building, or

(b) for the performance of any other matter or thing considered by all the councils or boards, or the Minister concerned to be a benefit to their respective municipalities, school districts, school divisions, improvement districts or special areas, and may enter into an agreement as to the joint control and management of anything that concerns their respective municipalities, school districts, school divisions, improvement districts or special areas.

(2) Where an agreement is entered into pursuant to subsection (1), the council may in the by-law

(a) appoint one or more of its members to be members of a joint committee with members appointed by the board of trustees of a school district or school division or by the councils of other municipalities or the appointee of the Minister on behalf of any improvement district or special area, and

(b) delegate to such joint committee power to construct, maintain, control and manage such undertaking, including the power to disburse the proceeds of debentures or other funds used for the purpose of such undertaking.

(3) A committee established pursuant to subsection (2) may in each year requisition the council of each municipality, the board of trustees of a school district or school division or the Minister for the proportionate share of the cost of operating the undertaking and expend any sums so requisitioned for the control, management, upkeep and operational expenses of the undertaking.

(4) A committee established pursuant to subsection (2) shall in each year furnish the council of each municipality, board of trustees of a school district or school division concerned or the Minister with an audited statement of its receipts and payments for the preceding year and shall also supply each council, board of trustees of a school district or school division or the Minister with such information regarding its management and operation as is considered necessary.

[R.S.A. 1970, c. 246, s. 118]

ADDENDUM III CON'T

THE MUNIPICAL GOVERNMENT ACT

Tax-
sharing
agreement

118.1 (1) Two or more municipalities may enter into an agreement for the sharing of taxes imposed for municipal purposes by one of the municipalities upon a person having assessable and taxable property in that municipality.

(2) The purpose of the agreement shall be to reflect the extent to which each municipality provided services either directly to the person or to his employees.

(3) An agreement entered into under subsection (1) may be amended or rescinded by and with the consent of the councils of all the municipalities party thereto.

(4) If the councils are unable to agree to the amendment or rescinding of the agreement, an application may be made by one or more of the councils of the municipalities to the Local Authorities Board which shall decide the matter.

(5) A municipality may appropriate from its general revenues such sums as are required to meet its obligations under an agreement entered into under this section.

[1971, c. 74, s. 6]

ADDENDUM III CON'T

THE SCHOOL ACT

Joint use
of buildings
etc.

92. (1) Subject to the prior approval of the Minister, a board may enter into an agreement

- (a) with one or more other boards for the joint construction, ownership, control, management, maintenance, operation or use of a school building or a building to be primarily used by pupils of one or more districts or divisions, or
- (b) with one or more other boards, persons or municipalities for the joint construction, ownership, control, management, maintenance, operation or use of a public work or building.

(2) Where an agreement is entered into pursuant to subsection (1) or section 160, clause (c), the board may

- (a) appoint one or more of its trustees to be members of a joint committee with persons appointed by another board and where appropriate, a person or municipality, and
- (b) delegate to or impose upon the joint committee such powers, duties, functions and responsibilities that it has under this Act or the regulations or that it has had delegated to it by the Minister under section 12, as it considers necessary.

(3) A board, person or municipality may provide the committee established pursuant to subsection (2) with such funds as the board, person or municipality considers proper and the committee may expend any sum received for the control, management, upkeep and operation of the undertaking.

(4) A committee established pursuant to subsection (2) shall in each year furnish the board, person or municipality with an audited statement of its receipts and payments for the preceding year and shall also supply the board, person or municipality with such information regarding its management and operation as is considered necessary by the board, person or municipality.

(5) Notwithstanding anything in this Act, for the purpose of this Act and the regulations a board may appoint another board to act on its behalf or on behalf of a joint committee established pursuant to this section.

[R.S.A. 1970, c. 329, s. 92; 1974, c. 57, s. 7]

ADDENDUM IV

SELECTED SECTIONS OF THE SCHOOL ACT

THE SCHOOL ACT

Disposition
of property

93. (1) Subject to this section, a board may dispose of any of its real or personal property other than school buildings designed for the instruction or accommodation of pupils.

(2) Subject to this section, a board may only dispose of school buildings designed for the instruction or accommodation of pupils if it obtains the prior approval of the Minister.

(3) Real or personal property of a value or likely to be disposed of at a price exceeding \$500 shall be disposed of in accordance with subsections (4), (5) and (6).

(4) The board shall

(a) obtain two or more independent appraisals of the market value of the real or personal property, and

(b) request tenders or arrange for a public auction.

(5) The board shall advertise the disposal of the real or personal property in a newspaper circulating in the district or division at least twice before the disposal.

(6) The board shall only dispose of the property if the bid or tender received is sufficient, in the opinion of the board, having regard to the appraisals received by the board and the approval of the Minister if required.

(7) Notwithstanding subsection (3), a board may dispose of any real or personal property to another board, a municipal corporation, a community association or other charitable or non-profit organization for a nominal consideration if it obtains prior approval of the Minister.

[R.S.A. 1970, c. 329, s. 93; 1971, c. 100, s. 9;
1973, c. 53, s. 15]

Application
of moneys
borrowed

115. (1) Subject to subsections (1.1) and (2), any money of a board

(a) acquired by borrowing, or

(b) accumulated by way of a reserve fund, or

(c) acquired in any other manner,

for capital expenditure, shall only be used for the purpose for which it was acquired or accumulated.

(1.1) The Minister may grant permission to a board to use money acquired or accumulated pursuant to subsection (1) for purposes other than capital expenditures and upon such terms and conditions as the Minister considers expedient.

(2) Notwithstanding subsection (1) a board may effect a temporary transfer of capital funds to an account for current expenses for any period not exceeding one year and thereupon the capital funds so transferred may be applied during that period toward a current expense.

[R.S.A. 1970, c. 329, s. 115; 1974, c. 57, s. 8]

ADDENDUM V

SOME REVISIONS TO ALLOW FOR CHANGED USE
AND DISPOSAL OF SCHOOL SITES

Principle V:

"That there be provisions for partial or completely changed use or disposal of operational sites and improvements or money in lieu thereof, commensurate with the commercial value."

Principle VI:

"That there be provisions for partial or completely changed use or disposal of undeveloped school sites, exchange for land wherever else there is need, or money in lieu thereof commensurate with the commercial value, the proceeds to be at the disposal of the relevant school board for capital purposes within its jurisdiction."

. 54 (throughout) A revision to include school board (i.e. council and/or municipality and/or school division) wherever "council" or "municipality" or "school board"; would probably arrange for disposal of reserve land suitably.

. 54(1) In this subsection the word disposition may need to be considered as to how broadly it may be interpreted. (This subsection provides for application to the Local Authorities Board "for an order authorizing the disposition of the parcel"). Reference to Addendum IV will illustrate some constructive possibilities for disposition of a school site: lease (with or without return date specified); provision for a school within a building primarily for other purposes for which land is sold or leased; shared (condominium?) tenance; sale of building but retention of land; and so forth. If disposition may not fit, another word provision would be necessary. This comment will obviously apply in other sections and subsections where intent is similar.

. 54(8) Subsection (8) is commended as to the principle involved, that is recapture of capital to be applied to like capital anywhere within the area of authority. It would need adjustment along such lines as:

"All monies received by a municipality or school division as a result of a disposition

of reserve land approved for disposal pursuant to subsection (6) or pursuant to subsection (1) of section 52 should be paid into a special trust account to be held and used for the same purpose as it was acquired."

This would be parallel to Section 115(1), The School Act. Added approval of the Local Authorities Board, the referent body for approval of reserve land disposition schemes, would also seem to be a natural conclusion in these instances.

- . 55-67 These sections (which collectively provide for schemes and methods of replotting of existing parcels of land by redistributing among present owners) might also enable the assembling of well located school sites suitable to school boards' approved needs are concerned. Such revision is not recommended in detail. However, the inclusion of school boards into the replotting process should occur.

MINISTER'S SUGGESTIONS AND ALTERNATIVES

In a letter to the ASTA, Lou Hyndman, minister of education, has put forward a number of suggestions relative to the school vacancy and school building demand situations. He has asked the association to advise school boards of these considerations.

The minister's material reads:

The government urges Boards to explore one or more of the following alternatives in situations where they have surplus space and/or requests for new school buildings or additions.

1. Lease vacant schools to municipalities for recreation, health or other uses, or to volunteer groups, or to commercial enterprises (lease allows Board to get school buildings back in 5, 10 or 15 years if future need arises — in meantime land value increases).
2. Lease part of an existing underutilized school to a municipality, volunteer group or private enterprise.
3. Sale of a surplus school and its site — some old ones are located in areas where commercial or high rise zone could be secured — valuable land yielding high sale price — dollars from sale could be used then for new school sites and or construction in new outlying subdivisions.
4. Retention of old school and land immediately adjacent to it but sale of the balance of the school site and apply monies received to new site purchases and/or construction.
5. Sell land and building but take an option for future space in a new building or development to be built by the purchaser on same site (commercial structure, high rise, etc.).
6. Develop a commercial or high rise structure on existing school site and use lower portion of it for school purposes — lease out the balance of the structure.
7. Agreement for joint use of an existing school building with the Separate Public Board in the area.
8. Agreement for joint construction of new school, with the Separate Public Board in the area.
9. With private developers or a municipality, exchange of existing school site for new school site or buildings or lands in new subdivisions.
10. Rent or purchase existing underutilized or vacant school just over the border of an adjacent school jurisdiction.
11. Build a new school, sell it immediately to a municipality or private company and lease it back from them for 10, 20 or 30 years.
12. Fully utilize to the maximum the "expandable core" concepts facilitated by the new regulations of the Department of Education.

With dropping enrolments, expanding peripheral subdivisions, shrinking "central area" enrolments, and rising construction costs, School Boards could usefully explore one or more of these 12 initiatives. Some of the suggested solutions are not feasible for certain Boards; others are. Existing legislative or regulatory barriers will be removed wherever appropriate.

ADDENDUM VII

SOME SUGGESTIONS FOR RESOLUTION OF DISPUTES

Principle VII:

"That provisions be made for outside review and settlement by another body in case of dispute."

- . Part V in general may have application, or by adjustment or inclusion may be made to be applicable to the resolution of inexorable differences between municipal and school authorities. In principle it is agreed that "council's (or school boards) decisions would be political decisions, and therefore should not be appealable to any non-political agency. The only higher political tribunal would be a minister or the Cabinet or the Legislature itself". Probably the ready solution must come from the Government as to which, and how. However, in the framework of Part V, the following comments may be pertinent.
- . 85 Among those considering themselves to be "aggrieved" should be included "school board(s)". The action of a development officer/municipal planning committee would be below the political level, and appeal would then appropriately be to the development appeal Board.
- . 87 The Municipal Planning Appeal Board, appointed by order-in-council presumably, would appear to be a desirable next step.
- . 88 Appeals from the decisions of the Alberta Planning Board are considered in Section 88 et seq, and particularly in Section 93 "Judicial Review". If these or similar provisions find their way into The (New) Planning Act, they could readily be adjusted to include "school board(s)". The point is that school boards should be able to exercise these privileges and appropriate inclusion of "school board" in all pertinent sections from 88 on to the end of this Part should be made.

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